

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON BROWN,

Petitioner,

No. CIV S-05-0866 FCD EFB P

vs.

DIANA K. BUTLER, et al.,

Respondents.

ORDER

/

On July 25, 2007, petitioner filed a request for reconsideration of the magistrate judge's order filed July 10, 2007, granting respondent's motion to dismiss on the ground that the petition contains both exhausted and unexhausted claims. In said order, the magistrate judge directed petitioner, within 30 days of the date of the order, to request a stay of the action to hold his exhausted claims in abeyance while he presents his unexhausted-due process claim to the state courts, or if no such request was made, the magistrate judge held that the court would dismiss the petition with leave to file an amended petition containing only the exhausted claims.

1 Pursuant to E.D. Cal. L.R. 72-303(f), a magistrate judge's  
2 orders shall be upheld unless "clearly erroneous or contrary to  
3 law." Upon review of the entire file, the court finds that it  
4 does not appear that the magistrate judge's ruling was clearly  
5 erroneous or contrary to law.

6 Therefore, IT IS HEREBY ORDERED that, upon reconsideration,  
7 the order of the magistrate judge filed July 10, 2007, is  
8 affirmed.

9 IT IS SO ORDERED.

10 DATED: August 20, 2007.



FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE